

TRANSPORTATION TORT LIABILITIES & EXPOSURES

BRIEFING PAPER

Prepared for the
APRIL 2004 TRANSPORTATION COMMISSION MEETING

Prepared by

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PURPOSE:

This is an informational presentation on the management review and assessment of the Department's past tort liabilities and exposures for the six fiscal years 1998-2003.

ACTION/OUTCOME:

The Commission will not be required to take any action. The expected outcome is an understanding of the Washington State Department of Transportation (WSDOT) tort liabilities, exposures and anticipated activities to minimize these liabilities.

BACKGROUND:

The Office of Attorney General (AG)/Torts Division and WSDOT Risk Management and Executive Management have corroborated and coordinated a joint AG/WSDOT risk summit/workshop since the fall of 2003. This has included extensive data gathering, analysis and management review to ensure maximum effectiveness of this activity. The schedule included two summit/workshop sessions: April 5 for highway design and maintenance, vehicle and civil rights/employment liabilities, and April 20 for ferry crew, passenger and civil rights/employment liabilities.

DISCUSSION:

Examination of the data disclosed \$52.1 million paid on 3,554 claims during fiscal years 1998-2003, for an annual average of \$8.7 million. Highway design/maintenance cases were the most costly, accounting for \$34.0 million (65%) of the payouts, with 69% (\$23.4 million) of that amount attributed to highway design and the remainder to maintenance. The data also revealed just 31 significant highway design/maintenance cases accounted for \$28.7 million (84%) of the \$34.0 million paid, and that 18 of these cases had joint and several liability exposures which accounted for \$19.8 million (69%) of the \$28.7 million paid. Ferry liabilities were the second most costly and accounted for \$12.8 million (25%) of the \$52.1 million paid. Vessel crew injury liabilities accounted for \$9.7 million (75%) of these payouts. Only nine such significant cases totaled \$3.8 million, and coupled with hearing loss cases totaling \$4.3 million, accounted for the majority of crew injury payments. The last two areas, vehicle liabilities and civil rights/employment liabilities accounted for 7% and 3% of the payouts respectively over the six years. The summit/workshops were setup to focus discussion on the most cost effective initiatives to enhance safety, reduce exposure and increase litigation success in these cases, and to ensure action plans to implement recommended initiatives are under development.

RECOMMENDATION:

Not applicable

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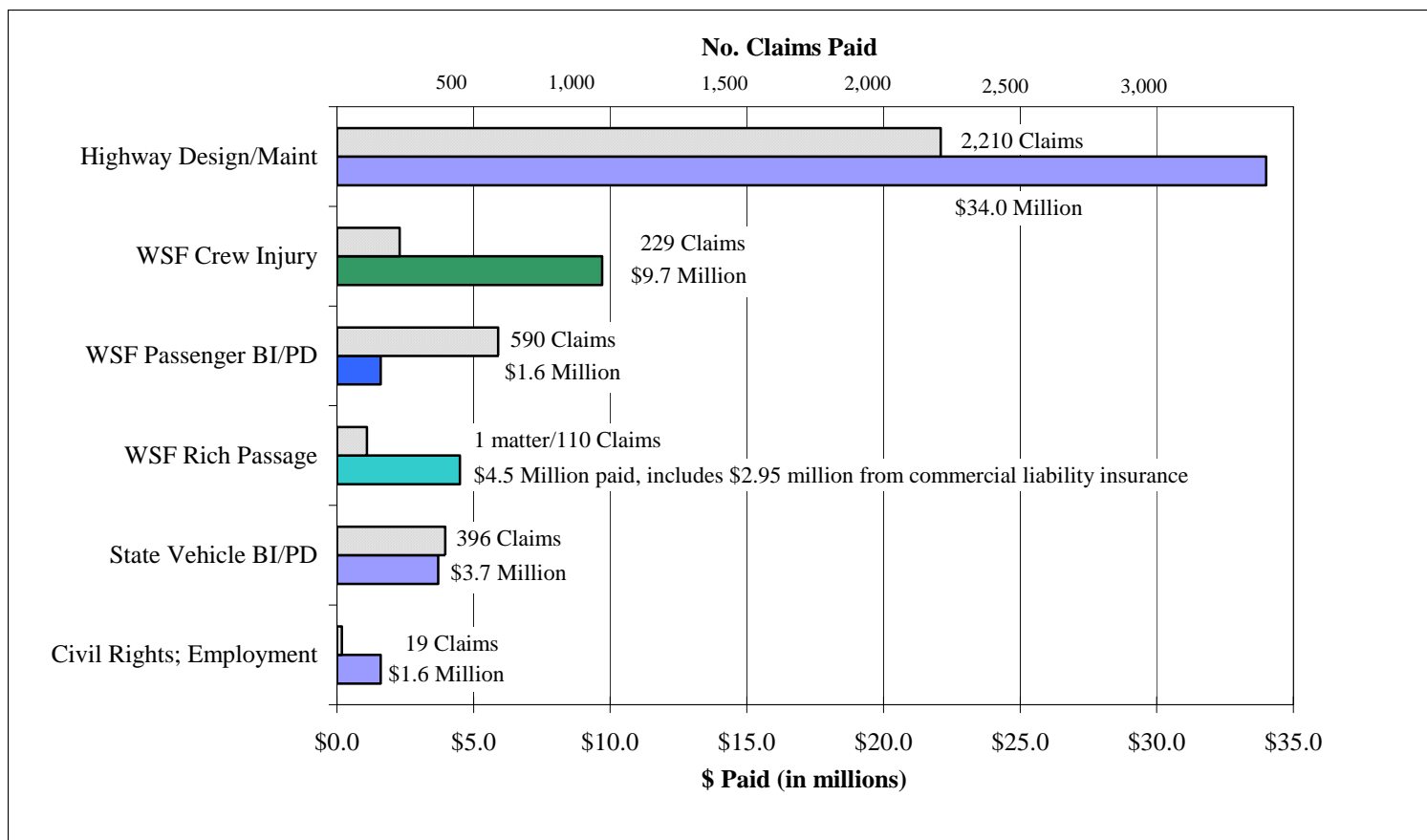
WSDOT Tort Liabilities & Exposures Six Years: 1998-2003

Material for Management Review

January – 2004

WSDOT Tort Liability Payments Six Years: FY 1998-2003

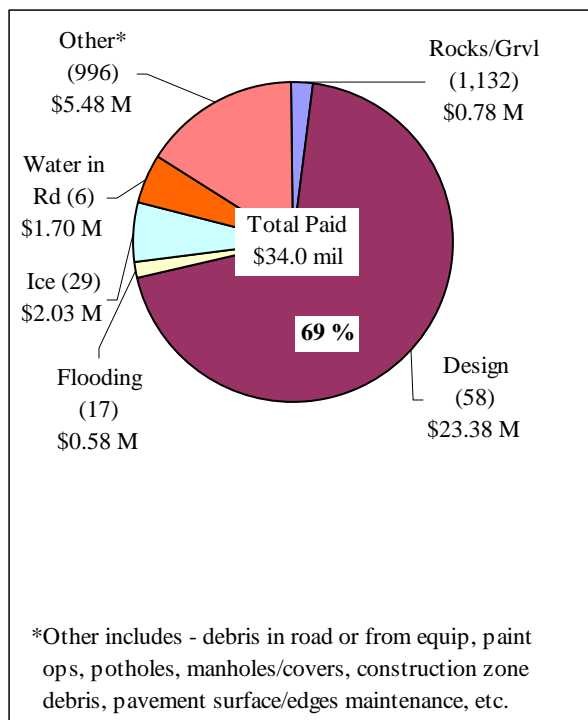
Total: \$52.1 million on 3,554 claims paid



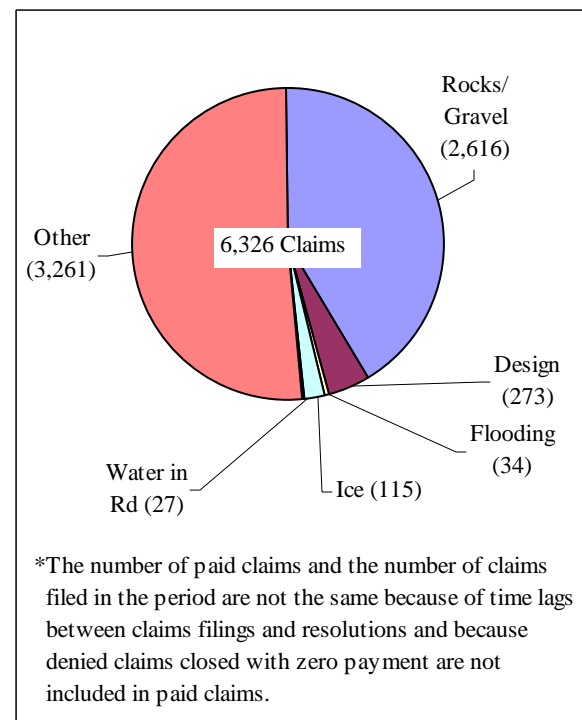
WSDOT Highway Design and Maintenance Claims Six Years: FY 1998-2003

Where do these claims and liabilities come from?

By Amounts Paid
2,210 Claims



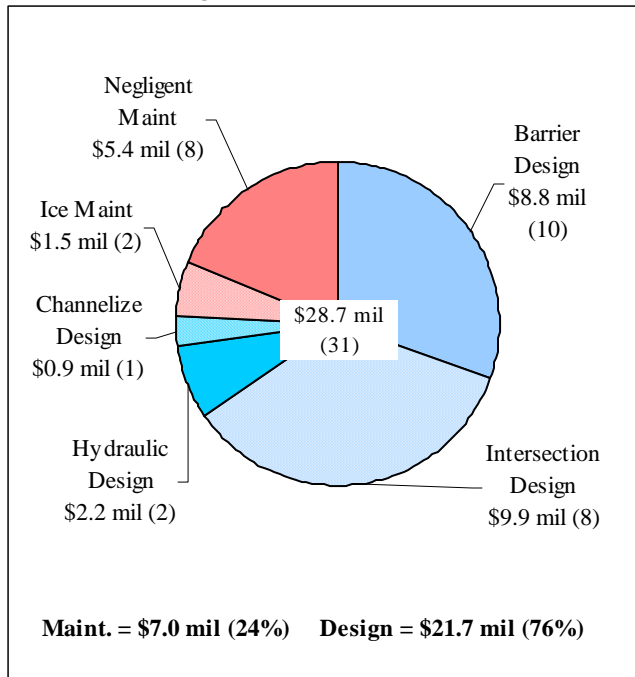
By Claims Filed
6,326 Claims*



WSDOT Highway Design and Maintenance Tort Payments Six Years: FY 1998-2003

**Many major cases involved “Joint and Several Liability”
Most of these cases are settled rather than tried**

31 Significant Cases Paid



18 of these cases were “Joint & Several” and only one of these was tried. The rest were settled.

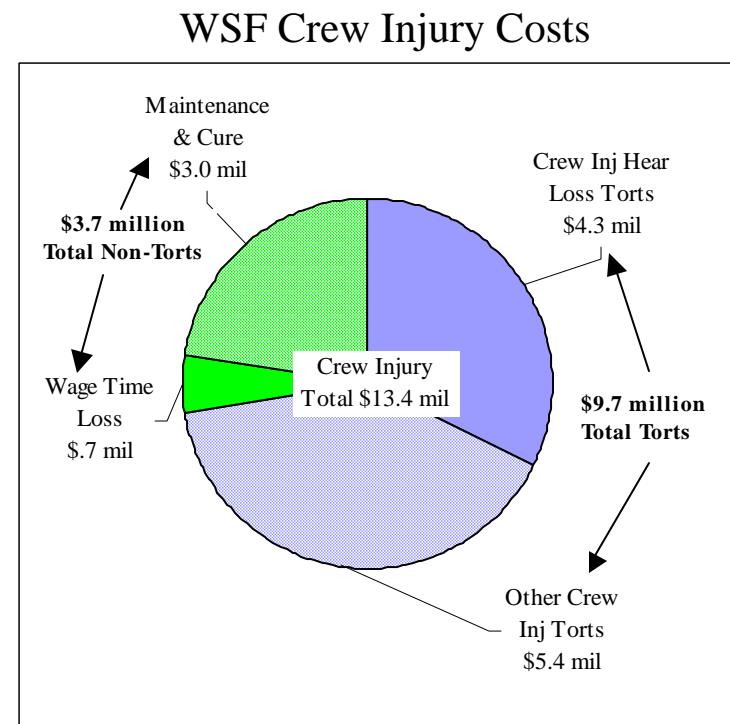
	Total Cases	Total Pymts	Joint & Several Settled	
			Number*	Amt Paid
Barrier Design	10	\$8.8	5	\$5.8
Intersection Design	8	\$9.9	8	\$9.9
Hydraulic Design	2	\$2.2	0	\$0.0
Channelization Design	1	\$0.9	1	\$0.9
<i>Subtotal Design</i>	<i>21</i>	<i>\$21.8</i>	<i>14</i>	<i>\$16.6</i>
Negligent Maintenance	8	\$5.4	3	\$2.5
Ice Maintenance	2	\$1.5	0	\$0.0
<i>Subtotal Maint.</i>	<i>10</i>	<i>\$6.9</i>	<i>3</i>	<i>\$2.5</i>
<i>Totals</i>	<i>31</i>	<i>\$28.7</i>	<i>17</i>	<i>\$19.1</i>
*One joint & several case on barrier design was tried (\$.7 million)				

Because of significant financial risks in trying cases (69% or \$19.8 million of these significant cases were joint and several) the trend has been to settle these cases

WSF Crew Injury Claims
Six Years: FY 1998-2003

Total payments of \$13.4 million for vessel crew injuries

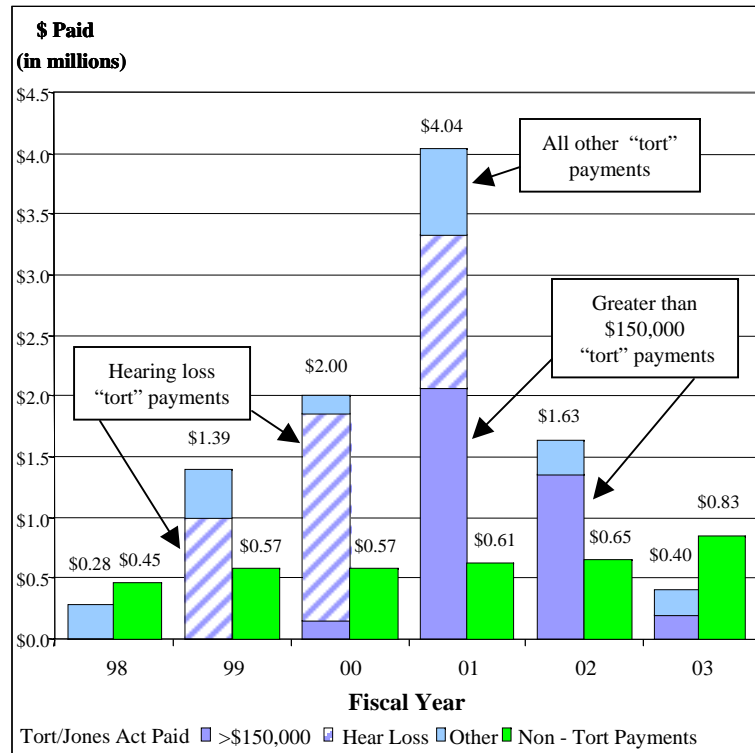
- 174 crew members were paid \$4.3 million in tort damages for hearing loss injury
- 55 crew members were paid \$5.4 million in tort damages for other injury
- Crew members were paid wage loss of \$.7 million (from injury date to last day of pay period or first day of return to work in the same pay period)
- Crew members were paid \$3.0 million in maintenance (daily stipend while off work) & cure (medical costs)



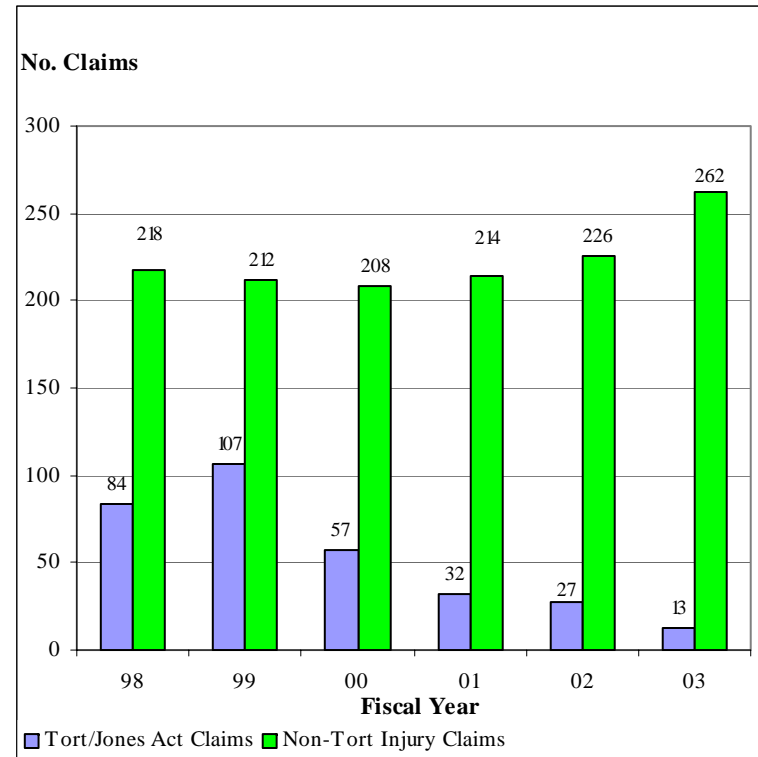
WSF Crew Injury Claims Six Years: FY 1998-2003

What is the trend in these cases?

Tort/Jones Act and Non-Tort Crew Injury
Payments Total \$13.4 Million



Tort/Jones Act and Non-Tort
Crew Injury Claims Filed

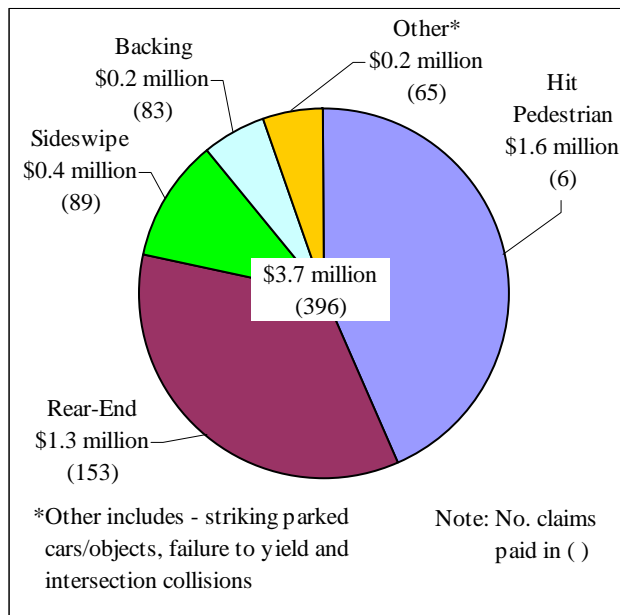


Over six years, 9 crew injury Jones Act cases (FY 00 = 1; FY 01 = 4, FY 02 = 3; and FY 03 = 1) over \$150,000 each accounted for a total \$3.8 million of total WSF liability, and hearing loss settlements in FY 99 – 01 accounted for a total \$4.3 million of total liability

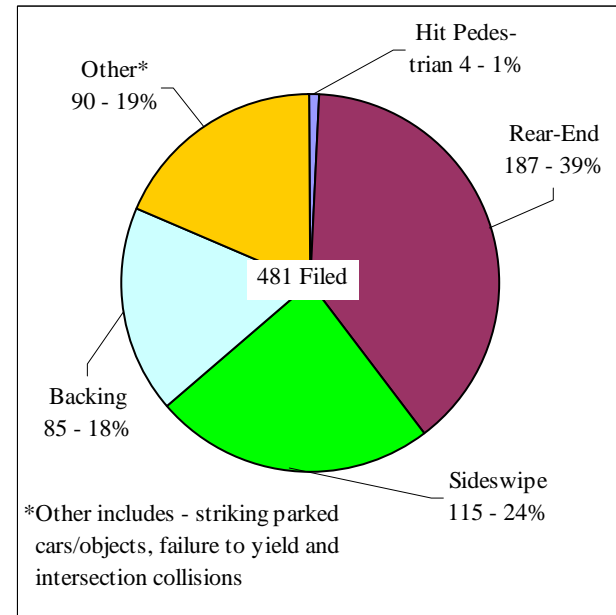
WSDOT State Vehicle Bodily Injury and Property Damage Claims Six Years: FY 1998-2003

How do these claims arise?

By Amounts Paid
396 Claims



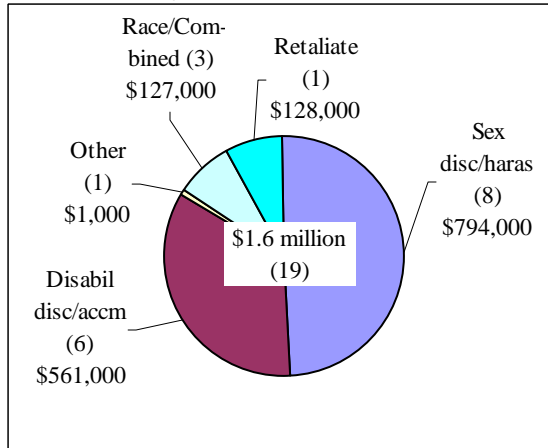
By Claims Filed
481 Claims



WSDOT Civil Rights/Employment Law Claims Six Years: FY 1998-2003

How and where did these claims arise?

By Amounts Paid



By Claims Filed

